

REMARKS

Claims 51-52, 55, 59-65, 68, 75-82, 90 and 93-96 currently appear in this application. The Office Action of May 19, 2005, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicants respectfully request favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Interview Summary

Applicant's attorneys wish to thank Examiner Kishore for the courtesies extended during the personal interview of August 24, 2005. Claims 51-55, 58-85, and 88-92 were discussed.

The claims have been amended as agreed upon during the interview as follows:

Claim 90 specifies that the carotenoid to lycopene and deletes "to a level close to saturation."

Claims 53, 54, 58, 66, 67, 83, 88, and 89, drawn to "water solution", specific trade names of phospholipids, and kits have been cancelled. In addition, claim 55 was amended to depend from claim 90. In addition, claim 69-72, which had been

improperly multiple dependent, have now been replaced by new claims 93-96 of the same scope.

The Examiner agreed to allow claims 51, 52, 55, 59-65, 68-82, and 90 if the above amendments were made.

**Rejections under 35 U.S.C. 112**

Claim 55 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

This rejection is respectfully traversed. Claim 55 has been amended to depend from claim 90.

**Art Rejections**

Claims 51-55, 58-83 and 88-92 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl.

This rejection is respectfully traversed. The present invention requires that the solvent be evaporated by lyophilization, which has been demonstrated to produce superior liposomes over conventional methods of evaporation of the solvent from liposomes. There is nothing in Stahl that teaches or suggests removing solvent from the liposomes by lyophilization.

Claims 51-55, 58-73, 75-83 and 88-92 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Maybeck in view of Stahl.

This rejection is respectfully traversed. Neither Stahl nor Maybeck teaches or suggests preparing liposomes in which the solvent is removed by lyophilization, nor that the solvent used in preparing liposomes is one that can be removed by lyophilization.

Claims 51-55, 58-73, 75-83 and 88-92 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Stahl.

This rejection is respectfully traversed. Neither Smith nor Stahl teaches or suggests that liposomes can be prepared in a process wherein the solvent is removed by lyophilization, as required by the process of the present invention.

Claim 55 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Maybeck or Stahl further in view of Mackaness.

This rejection is respectfully traversed. Although Mackaness teaches that cyclohexane can be used in preparing liposomes, Mackaness also discloses that chloroform can be used in such a process. Neither Maybeck, Stahl, nor Mackaness teaches or suggests preparing liposomes in which the solvent is removed by lyophilization, nor of using an organic solvent that can be removed by lyophilization. In contrast thereto, the present invention requires solvents that can be removed by

Appln. No. 10/073,365  
Amd. dated September 19, 2005  
Reply to Office Action of May 19, 2005

lyophilization, and, as the Examiner has noted, there are few organic solvents that can be removed by lyophilization.

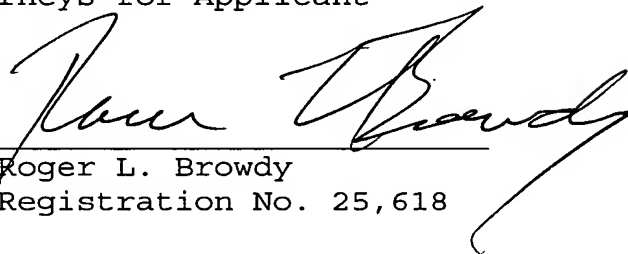
It is noted that Fredriksen has been cited are merely being of interest.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By:

  
Roger L. Browdy  
Registration No. 25,618

RLB:AMK::srd  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\C\cohn\Barenholz8a\Pto\AMD 19 SEP 05.doc